

IN THE SUPREME COURT FOR THE STATE OF MICHIGAN

PEOPLE OF THE STATE OF MICHIGAN,

Supreme Court No. *CPH*

Plaintiff-Appellee,

Court of Appeals No. 291617 *7-27-10*
(Leave blank.)

v

DONALD C. RICHARDSON,
(Print the name you were convicted under on this line.)

Trial Court No. 08-13456-FC
(From Court of Appeals decision.)

Defendant-Appellant. *OK*

(See Court of Appeals brief or Presentence Investigation Report.)

Wayne CRI T. Jackson

INSTRUCTIONS: Answer each question. Add more pages if you need more space. **NOTE:** If you are appealing a Court of Appeals decision involving an administrative agency or a civil action, you will have to replace this page with one containing the relevant information for that case.

PRO PER APPLICATION FOR LEAVE TO APPEAL

1. I was found guilty on (Date of Plea or Verdict) JAN. 29, 2009

2. I was convicted of (Name of offense) 2/ASSAULT WITH INTENT MCL 750. 84 /

FIREARM DURING FELONY MCL 750.227b.

3. I had a ☐ guilty plea; ☐ no contest plea; ☒ jury trial; ☐ trial by judge. (Mark one that applies.)

4. I was sentenced by Judge THOMAS E. JACKSON on FEBRUARY 26, 2009
(Print or type name of judge) (Print or type date you were sentenced)

in the WAYNE County Circuit Court to years 36/12 months
(Name of county where you were sentenced) (Put minimum sentence here)

to 36 months, and to years months to years 36/12 months.
(Print or type maximum sentence) (Minimum sentence) (Maximum sentence)

I am in prison at the ARF-S in ADRIAN, Michigan.
(Print or type name of prison) (Print or type city where prison is located.)

5. The Court of Appeals affirmed my conviction on 7/27/2010,
(Print or type date stamped on Court of Appeals decision)

in case number 08-013456-FC. A copy of that decision is attached.
(Print or type number on Court of Appeals decision)

6. ☒ This application is filed within 56 days of the Court of Appeals decision. (It MUST be received by the Court within 56 days of date on Court of Appeals decision in criminal cases and 42 days in civil cases. **Delayed applications are NOT permitted, effective September 1, 2003.**)

FILED

SEP 15 2010

CORBIN R. DAVIS
CLERK
MICHIGAN SUPREME COURT

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

DONALD C. RICHARDSON, Defendant-Appellant

CA No. 291617

INSTRUCTIONS: In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8 on page 7.

GROUND - ISSUES RAISED IN COURT OF APPEALS

7. I want the Court to consider the issues as raised in my Court of Appeals brief and the additional information below.

ISSUE I:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

SEE ATTACHED [A] APPELLANT'S APPEAL BRIEF:

THE COMPETENT EVIDENCE WAS NOT SUFFICIENT TO OVERCOME THE PRESUMPTION
OF INNOCENCE; THE EVIDENCE ESTABLISHED THAT DEFENDANT ACTED
LEGALLY IN SELF-DEFENSE

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
☐ 2. The issue raises a legal principle which is very important to Michigan law.
☒ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in "B" apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

THE MEDICAL RECORD ALONG GIVES PROOF OF NO INTENT (see attached

[A.A.] NEVER WAS IT SHOWN THAT DEFENDANT SHOT EITHER OF SAID
PLAINTIFFS / VICTIMS IN THE BACK AS A MATTER OF A FACT, THE
MEDICAL ATTENDING PHYSICIAN WEBBER MD. JOHN D SAYS THAT DINWIDDIE
WAS "GUN SHOT WOUND TO RIGHT CHEST AND RIGHT POSTERIOR FLANK."
FLANK: "The side of an animal or person BETWEEN THE RIBS AND HIP."
(see. page 497 in April's 1999 Random House Webster dictionary)
none of the medical records shows a gun shot to the back.

PRO PER APPLICATION FOR LEAVE TO APPEAL (cont.)

DONALD C. RICHARDSON, Defendant-Appellant

CA No. 219617

INSTRUCTIONS: In the part below, only bring up issues that were in your Court of Appeals brief. Attach a copy of your Court of Appeals brief if possible. If you prepared a supplemental brief which was filed in the Court of Appeals, those issues go in this part also. You should attach a copy of that brief, too, if you can. New issues go in question 8, on page 7.

ISSUE II:

A. (Copy the headnote, the title of the issue, from your Court of Appeals brief.)

TRIAL COURT DENIED DEFENDANT A FAIR TRIAL AND DUE PROCESS OF LAW BY
DISPLAYING PREJUDICE AGAINST THE DEFENDANT AND GIVING CONFUSING AND
CONTRADICTIONARY JURY INSTRUCTIONS.

B. The Court should review the Court of Appeals decision on this issue because: (Check all the ones you think apply to this issue, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☐ 2. The issue raises a legal principle which is very important to Michigan law.
- ☒ 3. The Court of Appeals decision is clearly wrong and will cause an important injustice to me.
- ☐ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in B apply to this issue. List any cases that you want the Supreme Court to consider. State any facts which you want the Court to consider. If you think the Court of Appeals mixed up any facts about this issue, explain here. If you need more space, you can add more pages.)

TO QUESTION DEFENSE ATTORNEY'S PLACING MUCH DOUBT IN THE MIND'S OF
THE JURY BRINGING FORTH A TRUE STANDARD OF 'FRUIT OF THE POISONOUS
TREE' THE JURY RESPECTS THE WORDS OF THE COURT ABOVE ALL OTHERS.

PRO PER APPLICATION FOR LEAVE TO APPEAL cont.

DONALD C. RICHARDSON, Defendant-Appellant

CA No. 291617

NEW ISSUES - INSTRUCTIONS: If you want the Supreme Court to look at errors which were not raised in the Court of Appeals by your attorney or you, check **YES** in "8." Answer parts **A**, **B**, and **C** for each new issue you raise. There is space provided for 2 new issues. You can add more pages. If you do not have new issues, go to question 9 on page 8.

GROUND S - NEW ISSUES

8. ☒ YES, I want the Court to consider the additional grounds for relief contained in the following issues.
The issues were not raised in my Court of Appeals brief. MCR 7.302(F)(4).

NEW ISSUE I:

A. (State the new issue you want the Court to consider.)

THE FACT THAT MY DEFENSE ATTORNEY DID NOT INVESTIGATE THE ISSUES
NOR DID HE CALL IN WITNESS OF WHICH WAS AVAILABLE TO HIM.
(SEE ATTACHED B-B)

B. The Court should review this issue because: (Check all the ones you think apply to your case, but you must check at least one.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
☒ 2. The issue raises a legal principle which is very important to Michigan law.

C. (Explain why you think that your choices in B above apply to this issue in your case. List any cases and citations, laws, or court rules, etc. which support your argument. Explain how they apply to this issue. State the facts which support and explain this issue. If these facts were not presented in court, explain why. You can add more pages.)

DEFENSE ATTORNEY WAS DELIBERATE INDIFFERENT IN HIS DUTIES AS MY
LEGAL ADVISER, FOR FAILING TO INVESTIGATE AND PRODUCE WITNESS
THAT WOULD HAVE GIVEN A GREATER FAVORABLE (TO MY SIDE)
UNDERSTANDING OF MY CASE. (SEE ATTACHED B-B)

RELIEF REQUESTED

9. For the above reasons I request that this Court *GRANT* leave to appeal, *APPOINT* a lawyer to represent me, and *GRANT* any other relief it decides I am entitled to receive.

SEPT. 13, 2010

(Date)

DONALD C. RICHARDSON 719076

(Print your name and number here.)

Donald C. Richardson

(Sign your name here.)

2727 E. BEECHER ST.

(Print your address here.)

ADRIAN, MICH. 49221

INEFFECTIVE ASSISTANCE OF COUNSEL

TO ESTABLISH A CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL: PLAINTIFF MUST SHOW THAT HIS COUNSEL'S PERFORMANCE AT TRIAL FELL BELOW AN OBJECTIVE STANDARD OF REASONABLENESS AND THAT THE PERFORMANCE SO PREJUDICED PLAINTIFF'S CASE THAT HE WAS DENIED THE RIGHT TO A FAIR TRIAL. People v Pickens 446 Mich 289,309.

In establishing Defendant's claim of 'Ineffective Assistance of Counsel' Defendant will be using verified and certified public record documents (ie "Transcripts") which the US Congress refers to as "Positive Evidence" are conclusive by both fact and law, as well in all substance, that Defendant was deprived of Equal Protection of the Law, Due Process of the law of the State and Federal Constitutions.

"Evidence established both elements of assault with intent to do great bodily harm. "This Court has defined the intent to do great bodily harm as 'an intent to do serious injury of an aggravated nature.'" Brown, 267 Mich App at 147, quoting People v Mitchell, 149 Mich App 36, 39, 385 NW2d 717 (1986). "An intent to harm the victim can be inferred from defendant's conduct." Parcha, 227 Mich App at 239. The requisite intent is established if a defendant attempts to do corporeal harm to a victim through the use of a deadly weapon. Id. As noted, the prosecution presented evidence that defendant shot Ms. Abrams four times and he shot Mr. Dineiddie twice. Evidence also showed that defendant shot both of the victims at close range and HE SHOT MR. DINWIDDIE FIRST IN THE BACK.(1) THIS EVIDENCE WAS SUFFICIENT FOR A RATIONAL JURY TO CONVICTED DEFENDANT OF ASSAULT WITH INTENT TO DO GREAT BODILY HARM. AND, THROUGH DEFENDANT ARGUES THAT PROSECUTION WITNESS OFFERED UNTRUTHFUL AND CONTRADICTORY TESTIMONY, "[T]HE CREDIBILITY OF WITNESS AND THE WEIGHT ACCORDED TO EVIDENCE ARE QUESTIONS FOR THE JURY, AND ANY CONFLICT IN EVIDENCE MUST BE RESOLVED IN THE PROSECUTOR'S FAVOR." People v Harrison, 283 Mich App 374, 378; 768 NW2d 98, 101 (2009). (People v Richardson, Court of Appeals #291617 unpublished July 27, 2010)

This is the full understanding of the Court of Appeals as to why defendant's case should not be reversed. Defendant says that if not for the fact that defense attorney did not investigate the fact that Mr. Dinwiddie was not shot in the back but facing defendant, all defense attorney had to do was to bring in the doctor's who treated Mr. Dinwiddie as a witness to this fact and as a witness as to what Mr. Dinwiddie told said doctor.

The doctor who treated Mr. Dinwiddie would have cleared the air as to the story of Mr. Dinwiddie being shot in the back and to the fact that both plaintiffs had been drinking and smoking dope given the both plaintiff's unclear understanding as to what truly happen. Defense attorney allowed two people who again, had been drinking and smoking dope to testify to facts that did not happen and even to facts that the two plaintiff's could not agree upon.

Brandy Abrams testifying with questions being asked by the prosecutor
Page (80):

P-Q-3 Where was Mr. Richardson?

-A-4 Sitting on the steps.

Page: (81):

Q-19 And when you say Mrs. Richardson was ranting and raving, where was Mr. Richardson?

A-21- At that time he was sitting on the top step on the porch.

Page (84):

Q-15 So where was Dennis standing? If we could refer back to People's 1, where was Dennis standing when he was talking to Mr. Richardson?

A-18 I say at the second step to the top.

Q-19 Second step to the top?

A-20 Mr. Richardson was standing on the porch and Dennis walked up the stairs.

Q-22 And where were you standing?

A- I was still at the time on the side of the porch.

Q- About how long was Mr. Richardson and Mr. Dineiddie talking?

[2]

Page (85)

A-1 Not long. I say about exchange a minute two minutes. And then Mr. Richardson said he was getting tired of this shit and that's when I heard the first shot.

Page (85):

Q-4 Okay. At any point in time did you see Mr. Richardson pull out a gun?

A-6 From the way they were standing, I cannot fully say I seen him pull out the gun, no. I heard it.

[This shows that defense attorney did not investigate this case or he too would of understood that Defendant and Mr. Dinwiddie were both standing on the porch when Defendant shot him and not on the ground nor was Mr. Dinwiddie trying to get away before he was shot]

Page (93):

Q-15 When you were hitting the railing with the bat, where was Mr. Richardson?

A- 17 Sitting on the steps.

Q-20 Where were you standing when you heard the first shot?

A-21 On the side of the proch where I was at.

"Again, proving that both men were on the porch when the first shots were fired."

Page (112) Defense Attorney asking the questions:

Q- Now all the while you're at the door, rather at the porch, near the side of the porch, on Mr. Richardson's grass, what was Dennise doing, if you know?

A-5 On the porch with Ms. Moore.

Page (127)

Q-2 And when you told her that you were going to fuck her up, what was Md. Richardson doing?

A-4 At the time Mr. Richardson was still sitting down on the porch.

[3]

[As a matter of a fact, out of all the eggs and rocks throwing, the hitting of his house with a base ball bat, women and kids throwing rocks, spitting, throwing water even to the point of a mad black women with a baseball bat telling his wife that she was going to fuck her up. Mr. Richarddson stayed cool and from Ms. Abrams's own mouth, "Mr. Richardson stayed sitting on his porch saying nothing" staying out of all of it, not standing in the yard shooting his weapon as plaintiff and the prosecutor would have you to believe. Defendant stayed on his porch even with a mad black woman (with a baseball bat) coming at him in a most frightening manner]

Q-6 Did he say anything in response to that statement that you made?

A-8 No, not that I -- No.

Now the facts to where did the bat come from and who had it; these questions were answered when Mr. Dinwiddie was question by the prosecutor:

The whole time of all of this even to the point when Ms. Brandy Abrams being shot, she never was swayed from her statement that Mr. Richardson and Mr. Dinwiddie was defiantly on Defendant's porch when the first shot were fired and at the time of Mr. Dinwiddie being shot. Mister Dinwiddie says:

Page (133):

Q-14 When Ms. Richardson and these kids were throwing eggs at each other do you know where Mr. Richardson was?

A-16 Yes.

Q-17 Where was he?

A- Standing right in the front of his yard.

Page (133)

Q- Was he saying anything?

A-20 No.

Q- Was he doing anything?

A-22 No.

[Even to the point of when Ms. Abrams got out of the car of which she was the passenger in not the driver, with a baseball bat and mad, Defendant stayed cool and collective that is, according to plaintiff Dinwiddie].

Page (134)

Q-9 When Brandy arrived, do you remember what was the first thing she said?

A-11 She pulled up in the car and asked what was going on and what was wrong.

Q-13 Who did she ask that?

A-14 Me and Teresa.

Q-15 And did Teresa answer her?

A-16 Yes.

Q-17 And without telling me what Teresa said, did Brandy do something; in respond to Teresa's answer?

A-19 No.

Q-20 So what does Brandy do next?

A-21 As I can recall she got out the car and she went to the Richardson's place.

Q-23 And when she went over to the Richardson's were the Richardsons outside?

A-25 Yes, Donald Richardson, the guy who is sitting over, he was standing outside and she went up to the--

Page (135)

Q-2 When you say she, who are you referring to?

A-3 Brandy.

Q-4 Okay. Continue, Sir.

A-5 And as I recall, that she got out of the car and asks was everything all right. And then she went up to Richardson's establishment.

Page (135)

Q-8 When she went over to the Richardson's house, what happened next?

A-10 Then she just went over there AND SHE HAD A BASEBALL BAT IN HER HAND.

[5]

[When plaintiff Brandy Abrams testified on Page (81) question
Q-10 Where did you get the bat from?
On the side of Ms. Moore house.]

[Again, these two plaintiffs are able to testify like this and Defense attorney never did catch on to none of this and point it out to the jury]

Page (135)

Q-12 Do you know where Mrs. Richardson was?

A-13 Yes. She was in the house.

Q-14 Okay. And where was Mr. Richardson?

A-15 Standing outside the house.

Q-16 Okay. And did you see Brandy do anything with that bat?

A-17 I seen her swing it, you know, trying to hit the doors.

[This also proves that she was a mad black woman who had been called and told that this woman had put her hands on her child and she was so mad until, she got out of the car with a baseball bat and started swinging on the house. This can only be seen as threatening behavior.

According to the plaintiff Mr. Dinwiddie, Mrs. Richardson was "in the house" and according to the Plaintiff Brandy "Mr. Richardson was on the porch at the time" so, we can only look at the fact that here is a black woman who has been called on the phone and told that a woman has placed her hands on her child, swing a bat as Mr. Richardson sits on the porch. Who was she swinging the bat at? Was she in fact so out of it with anger, until she walked up and started beating on the house or, being that (according to plaintiff Brandy, Mr. Richardson was still sitting on the porch) or is it that this mad black woman was swinging this bat at Mr. Richardson with him still not shooting?

By using the full authority of the United States Constitution and the Michigan Constitution, Defendant says that the within statements and actions proves that if Defendant would have had adequate
[6]

consular; Counsel who brought to the court the doctor who treated both plaintiff's so as the doctors could have testified to the fact as to how the bullets entered the plaintiffs and shown to the jury that the plaintiffs were not shot nor could they have been shot as they said they were. Defense attorney should have brought in expert witness to every claim of the prosecution but none of this was done with the transcript testimony proved (if the lawyer would have investigated) to the jury all of the within understandings.

Defendant was denied due process of law thus, denying Defendant his rights govern by the standards due to Defendant by the 'Six Amendment.'

Defendant is not learned at law but by using the within testimony of these two plaintiffs, Defendant himself has proven that there need not be continuous and excessive cases of the United States Supreme Court rulings as to what violates due process, a right secured by the Constitution for the United States of America 1791 to date, or, the fact that the judgment of the Appeals Court is in fact VOID because of said judgment was rendered contrary to anything other than the mandate of our United States Supreme Court as demanded by them in protecting and securing such rights of the Constitution 1791 to date.

As the words of the United States Supreme Court, considering the established facts that the U.S. Supreme Court speaks what is the Constitution which is the Supreme law and, should any law come into conflict with such Supreme Law, it would be NULL and VOID, it is well stated that a judgment rendered in violation of due process is VOID or moreover, any act repugnant to the Constitution is NULL and VOID.

In addressing the fact that our United States Supreme Court speaks what is the Constitution and that Michigan Supreme Courts agree that the spoken words of the U.S. Supreme Court are binding force and effect upon their decision finally, the words spoken are final in determining what is or is not Constitutional and what the rights which are secured under the Constitution shall demand. Anything to the contrary has been long stated to be of no force and effect and to be NULL and VOID.

The Six Amendment provides that "[in] all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defense."

The question is, where the requests of Constitutional rights adhered to as demanded by through the words of the United States Supreme Court as Supreme Law just dicere of binding force and effect on every law proscribed thereunder? In determining such arising to a conclusion of fact and law by and through our positive evidence [Transcripts and Court Records], this question is ultimately of one in nature of Constitutional requisite which is Supreme Law.

Any presumption of a drawn out sense of ambiguities or other vagueness has already been settled by and through the words of the United States Supreme Court.

"The Constitution speaks for itself in terms so plain that to misunderstand their import is not rationally possible." Carter -v- Carter Coal Co. 298 U.S. 238 (1935)

By the transcripts and medical records (both attached) alone proves that never was Plaintiff Dinwiddie shot in his back nor was Plaintiff Abrams not threatening Defendant with a baseball bat and standing on Defendant's porch at the time of both of the plaintiff's being shot by Defendant. Never did the evidence establish both elements of assault by the Defendant but both elements were established that both plaintiff's were on the porch, one mad black woman (with a baseball bat in her hand) who had been called and told that this woman had put her hands on her child, high off of drinks and drugs along with one plaintiff Dinwiddie who also had been drinking and had drugs in his system when he arrived at the hospital, stating himself that he came up on the porch to remove plaintiff Abrams because he too was afraid that plaintiff Abrams was going to hit Defendant with the baseball bat:

Page (137) Prosecution questioning Plaintiff Dinwiddie:

Q-13 Okay. Now after Brandy hits the door with the bat, what happen next?

A-15 I go up to Mr. Richardson and them house and restrain her from
[8]

hitting 'em with the bat, from the door, and I restrain her and walk her down the stairs.

Q-18 Now why did you go over to get Brandy?

A-19 Because I didn't want her to get in trouble or get nobody hurt.

What this statement proves is, the fact that plaintiff Diniddie would have shot plaintiff Abrams if it was the other way around and she was coming at him with said baseball bat or why else, would Dineiddie be afraid?